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10/600,199	06/19/2003	Vladimir Sadovsky	3382-64490	7566

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EXAMINER

MISLEH, JUSTIN P

ART UNIT PAPER NUMBER

2622

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/600,199	<b>Applicant(s)</b> SADOVSKY ET AL.	
	<b>Examiner</b> Justin P. Misleh	<b>Art Unit</b> 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8-23-05</u>   <u>10-26-05</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Rejections - 35 USC § 101*

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**Claim 23** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claim language recites a medium (e.g., computer-readable medium) and non-functional descriptive material (e.g., processed digital image). However, the claim fails to

provide functional descriptive material and nexus between the non-functional descriptive material both also stored, in addition the non-functional descriptive material, on the medium.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1 – 3, 7 – 17, 19 – 37, and 41 – 55** are rejected under 35 U.S.C. 102(e) as being anticipated by Parulski et al. (US 6,930,718 B2).

The Examiner considers Claims 1, 3, 7 – 10, 12, 13, 15, 20 – 22 and Claims 36, 37, and 41 – 50 and Claim 51 and Claim 52 to be corresponding claims, respectively. Accordingly, where appropriate, they will be rejected with together.

5. For **Claims 1, 28, 36, 51, and 52**, Parulski et al. disclose, as shown in figures 1, 3, 4, 25, 31a, 31b, 31c, 46, and 47, a method performed by a computer of processing digital images (see column 18, lines 50 – 57), the method comprising:

acquiring a digital image file containing a digital image (see Steps 204 and 206 in figure 31b) from a digital image data source (camera 10);

analyzing image data from the digital image file (see Steps 210 and 212 in figure 31b; also see column 17, lines 7 – 22, and column 18, lines 50 – 57); and

adjusting the image data (Parulski et al. indicates that the “derived ... images are enhanced” through processing; see column 12, lines 1 – 29) from the digital image file based at least in part on the analysis of the image data, wherein the analyzing and the adjusting are performed automatically upon acquiring the digital image file (Parulski et al. also state, in column 17, lines 7 – 46, that the derived images are analyzed for “common photographer errors and oversights” and some functions may be “automatic functions”. Parulski et al. at least provide either automatic recapture with automatically adjusted settings as shown in figure 47 or automatic image processing as stated in column 41, line 29 – column 43, line 22.).

The claims comprehensively recite a method, a computer system, and a software system for acquiring, analyzing, and adjusting digital images. In figures 1 and 4, Parulski et al. disclose a digital camera for performing the recited method. In column 17 (lines 7 – 22) and column 18 (lines 50 – 57), Parulski et al. state that the method may implemented in software stored in the camera and executed by the CPU (81) within the camera. Furthermore, Parulski et al. indicate that the method by also be executed according to firmware are stored with the camera. Finally, Parulski et al. also disclose the use of “fuzzy logic algorithms”. Based upon these teachings, the Examiner believes Parulski et al. adequately disclose the claimed steps, components, customization, and modules required by the claim language.

6. As for **Claim 2**, Parulski et al. disclose, as shown in figure 1, that the digital image data source is at least a digital camera (10) or mass-storage device (memory 54).

7. As for **Claims 3 and 37**, Parulski et al. disclose, as stated in column 17 (lines 7 – 22) and column 18 (lines 50 – 57), wherein the acquiring is initiated at a source location for the digital image (e.g., shutter release 22).

8. As for **Claims 7 and 41**, Parulski et al. disclose, as stated in column 26 (lines 7 – 24), further comprising analyzing non-image information from the digital image file (“shutter speed” is non-image information); wherein the adjusting is based at least in part on the analysis of the non-image information (Parulski et al. state the analysis is includes “shutter speed”).
9. As for **Claims 8 and 42**, Parulski et al. disclose, as stated in column 26 (lines 7 – 24), wherein the non-image information comprises at least shutter speed and aperture setting.
10. As for **Claims 9 and 43**, Parulski et al. disclose, as shown in figures 41 and 42 and as stated in column 35 (line 62) – column 36 (line 45), wherein the image data comprises pixel data for the image.
11. As for **Claims 10 and 44**, Parulski et al. disclose, as stated in column 17 (lines 7 – 22), further comprising generating image characteristic data (e.g., “exposure information” including “camera orientation” and “color information”) prior to adjusting the image data; wherein the adjusting is based at least in part on the image characteristic data.
12. As for **Claim 11**, Parulski et al. disclose, as stated in column 17 (lines 7 – 22), wherein the image characteristic data comprises image orientation data (Parulski et al. explicitly recite this feature in the above citation), and wherein the adjusting comprises adjusting orientation of the image based on the image orientation data (also see figure 49).
13. As for **Claims 12 and 45**, Parulski et al. disclose, as stated in column 17 (lines 7 – 22), wherein the image characteristic data comprises one image orientation data, blur data, and color balance data, and exposure data (Parulski et al. explicitly recite these feature in the above citation; also see figures 45 and 49).

14. As for **Claims 13 and 46**, Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), further comprising: generating metadata corresponding to the adjusting (“metadata instructions”); and storing the metadata corresponding to the adjusting in the digital image file; wherein the storing facilitates preservation-of an original version of the digital image (“The edited image that replaces the original electronic image can include sufficient information to recreate the original electronic image, in the form of metadata instructions or the like.”).

15. As for **Claim 14**, Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), wherein the acquiring is performed in response to a request from a user-mode application (see Step 186 in figure 31a; “S1 CLOSED?”), and further comprising: providing the digital image file with the metadata to the user-mode application (“The edited image that replaces the original electronic image can include sufficient information to recreate the original electronic image, in the form of metadata instructions or the like.”).

16. As for **Claims 15 and 47**, Parulski et al. disclose, as shown in figures 31c and 47, wherein automatic performance of the analyzing and the adjusting is selectively enabled or disabled by a user (figure 31c is manual performance and figure 47 is automatic performance).

17. As for **Claim 16**, Parulski et al. disclose, as stated in column 12 (lines 12 – 14), wherein the digital image file is a compressed digital image file.

18. As for **Claim 17**, Parulski et al. disclose, as stated in column 12 (lines 12 – 14), wherein the digital image file is in a JPEG format.

19. As for **Claim 19**, Parulski et al. disclose, as shown in figures 31a – 31c and 47, further comprising repeating the acts of claim 1 for a plurality of digital images (also see column 37, lines 15 – 23).

20. As for **Claims 20 and 48**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), wherein the acts are performed in an operating system environment as a feature (“revision suggestions” are one of many features) of the operating system environment (The Examiner considers the “software stored” upon which the controller 81 operates with to be the claimed “operating system environment”).

21. As for **Claims 21 and 49**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), wherein the operating system environment is a managed code environment (The Examiner considers the “firmware” to be a “managed code environment”).

22. As for **Claims 22 and 50**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), wherein the acts are performed in a background service of an operating system environment (The Examiner considers capturing images as the primary function of the camera 10; accordingly the “revisions suggestions” is a “background service”).

23. For **Claim 23**, Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), a computer-readable medium (memory 54) having stored thereon a digital image processed according the method of claim 1.

24. For **Claim 24**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), a computer-readable medium (ROM or EEPROM) having stored thereon computer-executable instructions for causing a computer to perform the method of claim 1.

25. For **Claim 25**, Parulski et al. disclose, as shown in figures 1, 3, 4, 25, 31a, 31b, 31c, 46, and 47, a method performed by a computer of processing digital images (see column 18, lines 50 – 57), the method comprising:



acquiring a digital image file containing a digital image (see Steps 204 and 206 in figure 31b) from a digital image data source (camera 10);

analyzing image data from the digital image file (see Steps 210 and 212 in figure 31b; also see column 17, lines 7 – 22, and column 18, lines 50 – 57); and

adjusting the image data (Parulski et al. indicates that the “derived ... images are enhanced” through processing; see column 12, lines 1 – 29) from the digital image file based at least in part on the analysis of the image data, wherein the analyzing and the adjusting are performed automatically upon acquiring the digital image file (Parulski et al. also state, in column 17, lines 7 – 46, that the derived images are analyzed for “common photographer errors and oversights” and some functions may be “automatic functions”. Parulski et al. at least provide either automatic recapture with automatically adjusted settings as shown in figure 47 or automatic image processing as stated in column 41, line 29 – column 43, line 22.).

Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), wherein the image adjustment software module generates metadata corresponding to adjustments of the digital image data, and further comprising: a metadata/image integrator for integrating the metadata into a digital image file containing adjusted digital image data.

26. As for **Claim 26**, Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), storing the metadata corresponding to the adjusting in the digital image file; wherein the storing facilitates reversal of the adjusting.

27. As for **Claim 27**, Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), storing the metadata corresponding to the adjusting in a second image file; wherein the second image file comprises a second version of the digital image file.

28. As for **Claim 29**, Parulski et al. disclose, as shown in figures 1 and 4, further comprising an image output device (26) for visually displaying digital images.

29. As for **Claim 30**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), wherein the image analysis software module and the image adjustment software module are in an image acquisition service of an operating system (The Examiner considers the “software stored” upon which the controller 81 operates with to be the claimed “operating system environment”).

30. As for **Claim 31**, Parulski et al. disclose, as stated in column 12 (lines 12 – 14), further comprising: an image decoder for decoding compressed digital image data; and an image encoder for encoding adjusted digital image data.

31. As for **Claim 32**, Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), wherein the image adjustment software module comprises one or more processing filters for adjusting the digital image data.

32. As for **Claims 33 and 53**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), wherein the image adjustment software module comprises an extensible software architecture operable to allow customization of the image adjustment software module, wherein the extensible software architecture comprises one or more processing filters for adjusting the digital image data, wherein each of the one or more processing filters encapsulates an image adjustment function (also see column 42, line 57 – column 43, line 2).

33. As for **Claims 34 and 54**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), wherein the customization comprises adding, removing or reordering processing filters in the image adjustment software module.

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34. As for **Claim 35**, Parulski et al. disclose, as stated in column 42 (line 57) – column 43 (line 2), wherein the image adjustment software module generates metadata corresponding to adjustments of the digital image data, and further comprising: a metadata/image integrator for integrating the metadata into a digital image file containing adjusted digital image data.

35. For **Claim 55**, Parulski et al. disclose, as stated in column 11 (lines 12 – 25) and in column 18 (lines 50 – 57), a computer-readable medium (ROM or EEPROM) having computer-executable code for the software system of claim 52.

***Claim Rejections - 35 USC § 103***

36. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

37. **Claims 4 – 6, 18, and 38 – 40** are rejected under 35 U.S.C. 103(a) as being unpatentable over Parulski et al. (US 6,930,718 B2).

The Examiner considers Claims 4 – 6 and Claims 38 – 40 to be corresponding claims, respectively. Accordingly, where appropriate, they will be rejected with together.

38. As for **Claims 4 – 6 and 38 – 40**, Parulski et al. disclose, as shown in figure 1, acquiring the digital image with a shutter release (22) on the digital camera 10). Although, Parulski et al. do not specify where the acquiring is initiated remotely at a target location; via a wireless communication medium; and through a network connection.

However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of initiating acquiring of digital images at a remote location such as a target location; via a wireless communication medium; and through a network connection are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have initiating acquiring of digital images at a remote location such as a target location; via a wireless communication medium; and through a network connection for the advantage of *providing a portable camera for use in surveillance systems*.

39. As for **Claim 18**, Parulski et al. disclose, as stated in column 12 (lines 12 – 14), wherein the digital image file is in a JPEG format. Parulski et al. additionally disclose, as stated in column 42 (line 57) – column 43 (line 2), generating metadata corresponding to the adjusting (“metadata instructions”) and storing the metadata corresponding to the adjusting in the digital image file. Although, Parulski et al. is silent with respect to EXIF format.

However, **Official Notice** (MPEP § 2144.03) is taken that both the concepts and advantages of storing digital images in the EXIF format are well known and expected in the art. At the time the invention was made, it would have been obvious to one with ordinary skill in the art to have stored digital images in the EXIF format for the advantage of *providing a platform independent manageable digital image file*.

#### ***Cited Prior Art***

40. The prior art made of record and not relied upon (Torres et al.; US 6,608,650 B1 and Bolle et al.; US 6,301,440 B1; and Battles et al.; US 2004/0252217 A1) is considered pertinent to Applicant's disclosure at least for the reason that it discloses a system and method for providing

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user assistance to a user of digital image device by automatically recognizing an attribute of the image data, retrieving correspond use assistance from a data, and providing the assistance to the user.

***Conclusion***

41. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 571.272.7313. The Examiner can normally be reached on Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Vivek Srivastava can be reached on 571.272.7304. The fax phone number for the organization where this application or proceeding is assigned is 571.273.3000.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM  
August 7, 2006



VIVEK SRIVASTAVA  
PRIMARY EXAMINER